

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 2:16-cr-00019-JPH-CMM
)	
KENNETH JOE MCCARTER,)	
)	
Defendant.)	

Order Denying Motion for Sentence Reduction

A criminal judgment sentencing Defendant Kenneth McCarter to 408 months' imprisonment was entered on March 6, 2018. Mr. McCarter filed the presently pending motion for sentence reduction on November 18, 2019. He asks for an unspecified sentence reduction because he received a lengthy sentence.

"A term of imprisonment is a final judgment that can only be modified in limited circumstances." *United States v. Stevenson*, 749 F.3d 667, 669 (7th Cir. 2014). The Court does not have inherent authority to modify a sentence. *United States v. Townsend*, 762 F.3d 641, 646 (7th Cir. 2014); *see also United States v. Cunningham*, 554 F.3d 703, 708 (7th Cir. 2009) ("[T]here is no inherent authority for a district court to modify a sentence as it pleases."). Thus, "A post-judgment motion [in a criminal action in federal court] needs a source of authority for the judge to act" *United States v. Scott*, 414 F.3d 815, 816 (7th Cir. 2005).

"The Sentencing Reform Act of 1984 explicitly prevents district courts from 'modify[ing] a term of imprisonment once it has been imposed' except in three narrow situations." *United States v. Townsend*, 762 F.3d at 645 (quoting 18 U.S.C. § 3582(c)). These include a motion from the Bureau of Prisons, § 3582(c)(1)(A), and a change in the applicable sentencing guidelines,

§ 3582(c)(2). The remaining circumstance is when a sentence reduction is “expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure.” § 3582(c)(1)(B).

Mr. McCarter does not provide a legal basis for the Court to reduce his sentence. And his general request for a sentence reduction does not fall within any of the three circumstances outlined above. Because the Court lacks legal authority to reduce his sentence, Mr. McCarter’s motion for sentence reduction, dkt. [73], is **denied**.

SO ORDERED.

Date: 1/3/2020



James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

Kenneth McCarter
#14051-028
USP Marion
U.S. Penitentiary
P.O. Box 1000
Marion, IL 62959

Gwendolyn M. Beitz
INDIANA FEDERAL COMMUNITY DEFENDERS
gwendolyn_beitz@fd.org

Kristina M. Korobov
UNITED STATES ATTORNEY'S OFFICE
kristina.korobov@usdoj.gov